

CONSENT AGENDA  
ITEM NO. 19

**CITY OF SAN ANTONIO  
INTERDEPARTMENTAL CORRESPONDENCE  
OFFICE OF THE CITY ATTORNEY**

**TO:** Mayor and City Council

**FROM:** Andrew Martin, City Attorney

**THROUGH:** Terry M. Brechtel, City Manager

**COPIES:** Frances A. Gonzalez, Assistant to the City Manager; Fernando A. Guerra, M.D.,  
File

**SUBJECT:** REVISIONS TO CITY CODE CHAPTER 36 ("SMOKING"), SECTION 36-1  
("DEFINITIONS")

**DATE:** August 11, 2003

**SUMMARY AND RECOMMENDATIONS**

This ordinance will amend City Code Chapter 36 ("Smoking"), Section 36-1 "Definitions") paragraph 9 ("Enclosed Dining Area") to revise the definition of "enclosed dining area."

Staff recommends approval.

**BACKGROUND INFORMATION**

On August 7, 2003 the City Council approved an ordinance that amended regulations governing smoking in public areas. Because of a drafting error, language in the proposed ordinance adopted by the City Council failed to reflect the intent that an "enclosed dining area" within a restaurant must be fully enclosed, except for doorways. The definition instead paralleled the definition of an "enclosed bar area" and authorized up to 50% of one wall to be open to an adjoining room.

This ordinance will amend paragraph 9 of Section 36-1 (Definitions) (shown in legislative format to identify deleted language) to read as follows:

9. "Enclosed Dining Area" means all space in a restaurant between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling, ~~except up to fifty percent (50%) of one wall may be open to an adjoining room.~~ The enclosed dining area may not exceed twenty percent (20%) of the restaurant's total floor space.

The compliance date for smoking ordinance revisions adopted last week is January 1, 2004. With eight or more votes, this amendment can be made effective August 17, 2003, the same effective

date as the smoking ordinance passed last week. With less than eight votes, this amendment will become effective ten days after passage of this amendment, on August 24, 2003.

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Andrew Martin  
City Attorney

APPROVED BY:

A handwritten signature in cursive script that reads "Terry M. Brechtel".

Terry M. Brechtel  
City Manager